



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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February 19, 2014

Evan R. Lewis
US Army Corps of Engineers, Seattle District
P.O. Box 3755
Seattle, WA 98124-3755

RE: Water Quality Certification – Order #10525, Grays Harbor Channel Realignment project in
Aberdeen, Grays Harbor County, Washington

Dear Mr. Lewis:

The above-referenced project for proposed work in waters of the state has been reviewed in accordance with all pertinent rules and regulations. On behalf of the State of Washington, we certify that the work proposed complies with applicable provisions of Sections 301, 302, 303, 306 and 307 of the Clean Water Act, as amended, and other appropriate requirements of State law. This certification is subject to the conditions contained in the enclosed Order and may be appealed by following the procedures described in the Order.

This Order does not change or affect Order # 8992 that was issued for annual maintenance dredging of the Grays Harbor and Chehalis River Federal Navigation Channel Inner Harbor. Order # 8992 for the maintenance dredging of the channel is in effect until it expires or until it is superseded with another Order.

If you have any questions concerning the content of this letter, please contact Kerry Carroll at (360) 407-7503.

Sincerely,

A handwritten signature in black ink, appearing to read "Brenden McFarland".

Brenden McFarland, Section Manager
Environmental Review and Transportation Section
Shorelands and Environmental Assistance Program



Order #10525
Grays Harbor Channel Realignment
February 19, 2014

by Certified Mail 7010 2780 0000 2503 3891

Enclosures

cc: Melissa Leslie, Corps

ecc: Loree' Randall, Ecology (SEA)
Laura Inouye, Ecology (SEA)
Rick Mraz, Ecology (SEA)
Debra Cornett, Ecology (WQ)
ecyrefedpermits@ecy.wa.gov

IN THE MATTER OF GRANTING A) ORDER #10525
WATER QUALITY) Realign the Grays Harbor and Chehalis River
CERTIFICATION TO) Federal Navigation Channel in Aberdeen, Grays
US Army Corps of Engineers, Seattle) Harbor, Washington
District)
in accordance with 33 U.S.C. 1341)
(FWPCA § 401), RCW 90.48.120, RCW)
90.48.260 and Chapter 173-201A WAC)

TO: US Army Corps of Engineers, Seattle District
Attn: Evan R. Lewis
P.O. Box 3755
Seattle, WA 98124-3755

On November 13, 2013 the US Army Corps of Engineers, Seattle District submitted a request to the Department of Ecology (Ecology) requesting a Section 401 Water Quality Certification. A public notice regarding the request was distributed by Ecology for the above-referenced project pursuant to the provisions of Chapter 173-225 WAC on November 22, 2013.

The project is proposing to realign the Grays Harbor and Chehalis River Federal Navigation Channel. The centerline of the channel would be shifted a maximum of 175 feet to either side of the existing centerline to the naturally deepened areas adjacent to the current alignment.

The purpose of the realignments is to maintain a safe navigation channel and take advantage of a natural shift in the thalweg, thus reducing the amount of dredging necessary to maintain the authorized navigation channel.

AUTHORITIES:

In exercising authority under 33 U.S.C. § 1341, RCW 90.48.120, and RCW 90.48.260, Ecology has examined this application pursuant to the following:

1. Conformance with applicable water quality-based, technology-based, and toxic or pretreatment effluent limitations as provided under 33 U.S.C. §1311, 1312, 1313, 1316, and 1317 (FWPCA § 301, 302, 303, 306 and 307);
2. Conformance with the state water quality standards contained in Chapter 173-201A WAC and authorized by 33 U.S.C. §1313 and by Chapter 90.48 RCW, and with other applicable state laws; and
3. Conformance with the provision of using all known, available and reasonable methods to prevent and control pollution of state waters as required by RCW 90.48.010.

WATER QUALITY CERTIFICATION CONDITIONS:

Through issuance of this Order, Ecology certifies that it has reasonable assurance that the activity as proposed and conditioned will be conducted in a manner that will meet the applicable water quality standards and other appropriate requirements of state law. In view of the foregoing and in accordance with 33 U.S.C. § 1341, RCW 90.48.120, RCW 90.48.260, Chapter 173-200 WAC and Chapter 173-201A WAC, water quality certification is granted to the Applicant subject to the conditions within this Order.

Certification of this proposal does not authorize the Applicant to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water standards (Chapter 173-200 WAC) or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this certification shall absolve the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters or sediments occurring as a result of project construction or operations.

A. General Conditions:

1. In this Order, the term "Applicant" shall mean the US Army Corps of Engineers, Seattle District (Corps) and its agents, assignees and contractors.
2. All submittals required by this Order shall be sent to Ecology's Headquarters Office, Attn: Federal Permit Coordinator, P.O. Box 47600 Olympia, WA 98504-7600 and/or Kerry Carroll. Any submittals shall reference Order 10525.
3. All notifications required by this Order shall be made via phone to Kerry Carroll, 360-407-7503, or e-mail at Kerry.Carroll@ecy.wa.gov. These notifications shall be identified with Order 10525 and include the Applicant's name, the project contact, and the contact's phone number.
4. Work authorized by this Order is limited to the work described in the Joint Aquatic Resources Permit Application (JARPA) received by Ecology on November 13, 2013 unless otherwise authorized by Ecology.
5. The Applicant shall obtain Ecology review and approval before undertaking any changes to the proposed project that might significantly and adversely affect water quality, other than those project changes required by this Order.
6. Within 30 days of receipt of the updated information, Ecology will determine if the revised project requires a new public notice and Certification or if a modification to this Order is required.

7. The Applicant shall keep copies of this Order on the job site and readily available for reference by Ecology personnel, the construction superintendent, construction managers and lead workers, and state and local government inspectors.
8. Upon Ecology personnel's request, the Applicant shall provide access to the project site, all staging areas, and mitigation sites for site inspections, monitoring, necessary data collection, and/or to ensure that conditions of this Order are being met.
9. Nothing in this Order waives Ecology's authority to issue additional orders if Ecology determines that further actions are necessary to implement the water quality laws of the state. Furthermore, Ecology retains continuing jurisdiction to make modifications hereto through supplemental order, if additional impacts due to project construction or operation are identified or if additional conditions are necessary to further protect water quality.
10. In the event of changes or amendments to the state water quality, ground water quality, or sediment standards, or changes in or amendments to the state Water Pollution Control Act (RCW 90.48), or the federal Clean Water Act, Ecology will issue an administrative order to incorporate any such changes or amendments applicable to this project.
11. The Applicant shall ensure that all appropriate project engineers and contractors at the project site have read and understand relevant conditions of this Order and all permits, approvals, and documents referenced in this Order. The Applicant shall provide Ecology a signed statement (see Attachment A for an example) from each project engineer and contractor that they have read and understand the conditions of this Order and the above-referenced permits, plans, documents and approvals. These statements shall be provided to Ecology before construction begins at the project.
12. This Order does not authorize direct, indirect, permanent, or temporary impacts to waters of the state (including wetlands) or related aquatic resources, except as specifically provided for in conditions of this Order.
13. Failure of any person or entity to comply with this Order may result in the issuance of civil penalties or other actions, whether administrative or judicial, to enforce its terms.

B. Water Quality Conditions:

1. This Order does not authorize temporary exceedances of water quality standards beyond the limits established in WAC 173-201A, except as otherwise authorized by this Order.
2. Turbidity occurring outside the turbidity mixing zone that is more than 10 nephelometric turbidity units (NTU) over background when the background is 50 NTU or less, or a 20% increase in turbidity when the background turbidity is more than 50 NTU is a violation of the turbidity water quality standard.

C. Turbidity Mixing Zone:

1. The distance granted for the temporary turbidity mixing zone is 600 ft downstream/down current from the in-water activity.
 - i. Visible turbidity anywhere beyond the 600 ft point of compliance from the activity and/or the disposal location shall be considered to be an exceedance of the standard.

D. Water Quality Monitoring

1. The Applicant shall implement and follow the Water Quality Monitoring Plans (WQMP) submitted on February 13, 2014.
2. Ecology must approve, in writing, any changes or additions to the WQMP.
3. Turbidity monitoring reports shall be sent weekly to the 401/CZM Federal permit coordinator. The permit coordinator shall be contacted within 24 hours if an exceedance occurs.
 - i. If monitoring results indicate an exceedance has occurred, a report shall be sent to the Federal Permit Coordinator, per condition H.2.f.

E. Dredging and Disposal:

1. All dredging is to be done using a clam shell bucket or hopper dredge. **Use of any other type of dredge requires preapproval from Ecology.**
2. All dredged material will be disposed of at one of the four Department of Natural Resources aquatic disposal sites. (Point Chehalis, South Jetty, Half Moon Bay and South Beach). **Use of any other type of disposal method or location requires pre-approval by Ecology.**
3. For material being taken to open water disposal sites, all debris (larger than 2 feet in any dimension) shall be removed from the dredged sediment prior to disposal. Similar sized debris found floating in the dredging or disposal area shall also be removed.
4. Dredging operations shall be conducted in a manner that minimizes the disturbance or siltation of adjacent waters and prevents the accidental discharge of petroleum products, chemicals or other toxic or deleterious substances into waters of the State.
5. Dredged material shall not be stockpiled on a temporary or permanent basis below the ordinary high water line.

6. During dredging, the Applicant shall have a boat available on site at all times to retrieve debris from the water.
7. The barge shall not be overfilled to the point where dredge material overtops the sidewalls.
8. Caution shall be used when placing material from the bucket into the barge to limit splash and prevent spillage.
9. The Dredge operator shall pause the bucket at the surface, after its ascent through the water column, to minimize turbidity by allowing free water to drain from the bucket prior to swinging the bucket to the barge.
10. A pre-dredge meeting is required to be convened prior to the start of dredging. A **Dredging Plan** is required and shall be submitted to Ecology to the 401/CZM Federal permit coordinator at the address shown in Condition A2 for review and approval 2 weeks prior to the pre-construction meeting.
11. Impacts to Dungeness Crab shall be avoided, minimized, and mitigated according to the September 1998 Revised Crab Mitigation Strategy.

F. Timing Requirements:

1. All in-water work shall be completed by the work window identified in the Grays Harbor FY 2012 through 2018 Maintenance Dredging and Disposal Environmental Assessment.
2. This Order shall remain in effect for a period of 2 years from date of issuance.

G. Notification Requirements:

1. The Applicant shall provide notice to Ecology's 401/CZM Federal permit coordinator at least 7 days prior to the start of construction.
2. The Applicant shall notify Ecology within 14 days after completion of construction or dredging at the project site.
3. Notifications shall be made using all the information required in Condition A2.

H. Emergency/Contingency Measures:

1. The Applicant shall develop a spill prevention and containment plan for this project, and shall have spill cleanup materials and an emergency call list available on site.
2. Any work that is out of compliance with the provisions of this Order, or conditions causing distressed or dying fish, or any discharge of oil, fuel, or chemicals into state

waters, or onto land with a potential for entry into state waters, is prohibited. If these occur, the Applicant or operator shall immediately take the following actions:

- a. Cease operations that are causing the compliance problem.
 - b. Assess the cause of the water quality problem and take appropriate measures to correct the problem and/or prevent further environmental damage.
 - c. In the event of finding distressed or dying fish, the applicant shall collect fish specimens and water samples in the affected area within the first hour of the event. These samples shall be held in refrigeration or on ice until the applicant is instructed by Ecology on what to do with them. Ecology may require analyses of these samples before allowing the work to resume.
 - d. In the event of a discharge of oil, fuel, or chemicals into state waters, or onto land with a potential for entry into state waters, containment and cleanup efforts shall begin immediately and be completed as soon as possible, taking precedence over normal work. Cleanup shall include proper disposal of any spilled material and used cleanup materials.
 - e. Immediately notify Ecology's 24-Hour Spill Response Team at 1-800-258-5990, **and** within 24 hours of spills or other events Ecology's 401/CZM Federal permit coordinator at (360) 407-7503.
 - f. Submit a detailed written report to Ecology within five (5) days that describes the nature of the event, corrective action taken and/or planned, steps to be taken to prevent a recurrence, results of any samples taken, and any other pertinent information.
3. Fuel hoses, oil drums, oil or fuel transfer valves and fittings, etc., shall be checked regularly for drips or leaks, and shall be maintained and stored properly to prevent spills into state waters, including wetlands.
 4. If at any time during work the proponent finds buried chemical containers, such as drums, or any unusual conditions indicating disposal of chemicals, the proponent shall immediately notify Ecology using the above phone numbers.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of receipt" is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.
- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Olympia, WA 98504-7608
Pollution Control Hearings Board 1111 Israel RD SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

CONTACT INFORMATION

Please direct all questions about this Order to:

Kerry Carroll
Department of Ecology
Headquarters
P.O. Box 47600
360-407-7503
Kerry.Carroll@ecy.wa.gov

MORE INFORMATION

Pollution Control Hearings Board Website

www.eho.wa.gov/Boards_PCHB.aspx

Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board

<http://apps.leg.wa.gov/RCW/default.aspx?cite=43.21B>

Chapter 371-08 WAC – Practice And Procedure

<http://apps.leg.wa.gov/WAC/default.aspx?cite=371-08>

Chapter 34.05 RCW – Administrative Procedure Act

<http://apps.leg.wa.gov/RCW/default.aspx?cite=34.05>

Chapter 90.48 RCW – Water Pollution Control

<http://apps.leg.wa.gov/RCW/default.aspx?cite=90.48>

Chapter 173.204 WAC – Sediment Management Standards

www.ecy.wa.gov/biblio/wac173204.html

Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington
www.ecy.wa.gov/biblio/wac173201A.html

SIGNATURE

Dated February 19, 2014 at the Department of Ecology in Olympia, WA.



Brenden McFarland, Section Manager
Environmental, Review and Transportation Section
Shorelands and Environmental Assistance Program
Headquarters

ATTACHMENT A

**Army Corps of Engineers, Seattle Division
Grays Harbor Channel Realignment
Water Quality Certification Order #10525**

**Statement of Understanding of
Water Quality Certification Conditions**

I have read and understand the conditions of Order #10525 Section 401 Water Quality Certification for the Grays Harbor Channel Realignment. I have also read and understand all permits, plans, documents, and approvals associated with the project referenced in this order.

Signature

Date

Print Name

Company

Title

